

paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the regional director (compliance). Where the exemption is claimed for a place other than the brewery, special tax shall be paid at the brewery if sales are made thereat.

(c) *Exception.* Where the proprietor of a brewery consummates sales of beer to dealers at the purchasers' places of business (through delivery route salesmen or otherwise), such proprietor is required to pay special tax as a wholesale dealer in beer at each place from which he conducts such selling operations.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.185 Wholesale dealers in liquors consummating sales of wines or beer at premises of other dealers.

(a) *Sales of wines.* Any wholesale dealer in liquors (including the proprietor of a bonded wine cellar) who has paid special tax as a wholesale dealer in liquors for the place from which he conducts his selling operations may consummate sales of wines to other wholesale or retail dealers in liquors, or to limited retail dealers, at the purchasers' places of business without being required to pay additional special tax on account of such sales.

(b) *Sales of beer.* Any wholesale dealer in liquors who has paid the tax as provided in paragraph (a) of this section may also consummate sales of beer to wholesale or retail dealers in beer, to wholesale or retail dealers in liquors, or to limited retail dealers, at the purchasers' place of business without being required to pay additional special tax on account of such sales.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.186 Wholesale dealers in beer consummating sales at premises of other dealers.

Any dealer (including the proprietor of a brewery) who has paid special tax as a wholesale dealer in beer for the place from which he conducts his selling operations may consummate sales of beer (but not wines or distilled spirits) to other dealers at the purchasers' places of business without being re-

quired to pay additional special tax on account of such sales.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.187 Hospitals.

Hospitals and similar institutions furnishing liquors to patients are not required to pay special tax, provided no specific or additional charge is made for the liquors so furnished.

§ 194.187a Limited retail dealers.

Limited retail dealers, as specified in § 194.27, are not required to pay special tax.

[T.D. ATF-271, 53 FR 17553, May 17, 1988]

§ 194.187b Coordination of taxes under 26 U.S.C. 5111 and 5121.

Effective January 1, 1988, special tax is not imposed concurrently under both 26 U.S.C. 5111(a) (relating to wholesale liquor sales) and 26 U.S.C. 5111(b) (relating to wholesale beer sales), nor under both 26 U.S.C. 5121(a) (relating to retail liquor sales) and 26 U.S.C. 5121(b) (relating to retail beer sales), with respect to a taxpayer's activities at a single place during a single tax year. (See § 194.72.)

(26 U.S.C. 5113(g), 5123(c))

[T.D. ATF-285, 54 FR 12611, Mar. 28, 1989]

PERSONS WHO ARE NOT DEALERS IN LIQUORS OR BEER

§ 194.188 Persons making casual sales.

Certain persons making casual sales of liquors are not liquor or beer dealers within the meaning of the statute; they are as follows:

(a) Administrators, executors, receivers, and other fiduciaries who receive distilled spirits, wines, or beer in their fiduciary capacities and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters);

(b) Creditors who receive distilled spirits, wines, or beer as security for, or in payment of, debts and sell such liquors in one parcel, or at a public auction in parcels of not less than 20 wine gallons (75.7 liters);

(c) Public officers or court officials who levy on distilled spirits, wines, or beer under order or process of any

§ 194.189

court or magistrate and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters); or,

(d) A retiring partner, or representative of a deceased partner, who sells distilled spirits, wines, or beer to the incoming or remaining partner, or partners, of a partnership.

Persons making such sales are not required to pay special tax, or keep the records or reports required of dealers in subpart O of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340 (26 U.S.C. 5113))

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46860, Oct. 26, 1976]

§ 194.189 Agents, auctioneers, brokers, etc., acting on behalf of others.

Certain persons may sell liquors as agents or employees of others, or receive and transmit orders therefor to a dealer, without being considered liquor or beer dealers on account of such activities; they are as follows:

(a) Auctioneers who merely sell liquors at auction on behalf of others,

(b) Agents or brokers who merely solicit orders for liquors in the name of a principal, but neither stock nor deliver the liquors for which orders are taken,

(c) Employees who merely sell liquors on behalf of their employers, and

(d) Retail dealers in liquors or retail dealers in beer who merely receive and transmit to a wholesale dealer orders for liquors or beer to be billed, charged, and shipped to customers by such wholesale dealers.

Such persons, who have no property rights in the liquors or beer sold, may make collections for their principals and receive commissions for their services, or guarantee the payment of accounts, without being required to pay special tax. In all such cases, however, the principal is required to pay special tax at each place where sales are consummated, unless he is exempt therefrom under the provisions of this subpart.

§ 194.190 Apothecaries or druggists selling medicines and tinctures.

Apothecaries and druggists who use wines or spirituous liquors for

27 CFR Ch. I (4-1-03 Edition)

compounding medicines and in making tinctures which are unfit for use for beverage purposes are not required to pay special tax as dealers in liquors by reason of the sale of such compounds or tinctures for nonbeverage purposes.

(72 Stat. 1328; 26 U.S.C. 5025)

§ 194.191 Persons selling products unfit for beverage use.

(a) *Vendors not deemed dealers in liquors or beer.* No person selling or offering for sale for nonbeverage purposes products classed as unfit for beverage use under the provisions of § 19.58 of this chapter shall be deemed, solely by reason of such sales, to be a dealer in liquors.

(b) *Restrictions.* Any person who sells or offers for sale any nonbeverage products for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax as a wholesale or retail dealer in liquors or as a wholesale or retail dealer in beer, as the case may be.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-379, 61 FR 31426, June 20, 1996]

§ 194.192 Retail dealer selling in liquidation his entire stock.

No retail dealer in liquors or retail dealer in beer, selling in liquidation his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of beer, which parcels may contain a combination of any or all such liquors, to any other dealer shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, by reason of such sale or sales. A retail dealer making such sale or sales is not required to keep records or submit reports thereof.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.193 Persons returning liquors for credit, refund, or exchange.

No retail dealer in liquors or beer, or other person, shall be deemed to be a